



U.S. Department
of Transportation
**Federal Highway
Administration**

New York Division

May 15, 2008

Leo W. O'Brien Federal Building, Suite 719
Clinton Avenue & North Pearl Street
Albany, NY 12207

In Reply Refer To:
HDO-NY

Mr. Darrell Kaminski, P. E.
Regional Design Engineer
New York State Department of Transportation, Region 5
100 Seneca Street
Buffalo, NY 14203-2939

Dear Mr. Kaminski:

This is in regards to PIN 5044.01, Southtowns Connector/Buffalo Outer Harbor, City of Buffalo, Erie County. We have reviewed the May 9, 2008, 23 CFR 771.130 Review prepared for this project and have visited the project site. This review considers a number of proposed design changes and enhancements and has evaluated the potential impacts to determine the validity of the existing environmental documentation in the 2006 Final Environmental Impact Statement (FEIS) and 2007 Record of Decision (ROD).

After review of the documentation, we concur with the NYSDOT conclusion that in advancing the proposed design changes and enhancements, the Southtowns Connector/Buffalo Outer Harbor Project would not be substantially different from the Preferred Alternative chosen in the FEIS and ROD, and would not result in any new significant adverse impacts. Furthermore, we agree that the FEIS is still valid, up-to-date and complete and therefore we determine that a Supplemental EIS is not necessary.

If you have any questions, please feel free to contact John Burns at (518) 431-4125, extension 252.

Sincerely,

/s/ JEFFREY W. KOLB, P.E.

Jeffrey W. Kolb, P.E.
Division Administrator

cc:

Robert Dennison, P.E., NYSDOT Office of Engineering

Daniel D'Angelo, P.E., NYSDOT Office of Design

Shelah LaDuc, NYSDOT Regional Environmental Program Manager - Region 5

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ALAN E. TAYLOR, P.E.
REGIONAL DIRECTOR
May 9, 2008

ASTRID C. GLYNN
COMMISSIONER

Jeffrey W. Kolb, P.E., Division Administrator
Attention: John Burns, Area Engineer
FHWA – New York Division Office
Leo W. O'Brien Federal Building, Room 719
Clinton Avenue & North Pearl Street
Albany, NY 12207

**SUBJECT: 23 CFR 771.130 REVIEW
SOUTHTOWNS CONNECTOR/BUFFALO OUTER HARBOR
CITY OF BUFFALO, ERIE COUNTY
PIN 5044.01.121, D260558**

Dear Mr. Kolb:

Please find attached the 23 CFR 771.130 review for the subject project. This review has been undertaken in consultation with your office. This review studied the proposed changes and their potential impacts to determine the validity of the existing environmental documentation in the FEIS and the ROD.

Based on this review, it is concluded that the Southtowns Connector / Buffalo Outer Harbor Project would not be substantially different from the Modified Improvement Alternative (Preferred Alternative) chosen in the 2006 FEIS and 2007 ROD, and would not result in any new significant adverse impacts requiring new mitigation measures. Furthermore, this review affirms that the environmental analysis in the FEIS is still valid, up-to-date and complete. Therefore, the 2006 FEIS and 2007 ROD are still valid.

The Department hereby requests your concurrence in this assessment.

If you have any questions regarding the attached, please contact me at (716) 847-3214 or Douglas Ackerman, Project Manager, at (716) 847-3227.

Very truly yours,
Original Signed By:
D. F. Kaminski

Darrell F. Kaminski, P.E.
Regional Design Engineer

DFK/DSA/bjh
Attachment

cc: Robert Dennison, P.E., NYSDOT, Office of Engineering – 50 Wolf Rd., FL 6-AVE A-5th ST
Daniel D'Angelo, P.E., NYSDOT, Office of Design – 50 Wolf Rd., FL 2-AVE A-4th ST
Shelah A. LaDuc, Regional Environmental Program Manager – Region 5

23 CFR 771.130 REVIEW

For

Southtowns Connector / Buffalo Outer Harbor

P.I.N. 5044.01

NY Route 5 (Skyway to NY Route 179)
Tifft Street Arterial (I-190 to Tifft Street) &
Ohio Street (Michigan Street to NY Route 5)
City of Buffalo, Erie County, NY

May 9, 2008

As a result of the development of the final designs for the subject project and the continued involvement of major stakeholders in the project, it became necessary to make changes to the selected alternative described in the May 2006 Final Environmental Impact Statement (FEIS) and the January 31, 2007 Record of Decision (ROD). This review studied the proposed changes and their potential impacts to determine the validity of the existing environmental documentation in the FEIS and the ROD.

The changes associated with this review are:

1. **FEIS Comment letter from Environmental Protection Agency (EPA) dated July 25, 2006** – Additional analysis and documentation was requested by the EPA to more thoroughly address Cumulative Impacts. The documentation was provided to the EPA in a letter dated December 7, 2006 (See Attachment A). Additional follow up with the EPA through the FHWA indicated their concerns were resolved satisfactorily.
2. **Creation and Approval of the Niagara River Greenway Plan** - The Niagara River Greenway Plan ("Greenway Plan") was approved in May 2007, almost four months after the FHWA ROD was issued. Accordingly, because the approved Greenway Plan did not exist, a formal consistency review was not conducted at that time nor was it required. However, the New York State Department of Transportation (NYSDOT) has participated in the Greenway Commission meetings, is fully familiar with the Greenway Plan's vision, principles and goals, and finds the Project to be consistent with the Greenway Plan. The Southtowns Connector/Buffalo Outer Harbor (STC/BOH) Project objectives are to a) support economic development by facilitating brownfields and vacant land development, and enhance waterfront areas for regional quality of life improvements; b) improve regional and local transportation service performance and efficiency; c) improve mobility, access and safety in a cost effective manner; d) support local and regional planning policies and strategies; and e) minimize adverse impacts on communities and the environment. These objectives are consistent with the Greenway Plan goals which are to improve access, make connections, protect and restore environmental systems, celebrate history and heritage, spark revitalization and renewal, promote long-term sustainability, and extend Olmsted's legacy. The project will not negatively impact water uses or water quality, existing wetlands, bird habitats, or bird migratory paths, and involves only as much infrastructure as is necessary to meet the project objectives. The project increases waterfront access for all visitors, celebrates industrial heritage, and improves access to the Tifft Nature Preserve. The Project remains within the physical confines of the existing right-of-way, with the exception of

the Tiftt street arterial. No part of the existing Olmsted Park and Parkway system is located within the Project corridor. It is noteworthy that the Greenway Plan states that "this Plan cannot replace the independent planning processes and engineering functions that are associated with major capital investment transportation projects, which must incorporate a range of factors." The Greenway Plan further states that it "...is a long-term policy document and is ill suited for the review of site specific transportation projects, and the Niagara River Greenway Commission does not have the legal authority to dictate how governmental agencies undertake transportation projects."

NYSDOT recognizes the importance of the Niagara River Greenway Plan and has reviewed this project for consistency. This review determined the project, as let, was consistent with the Niagara River Greenway Plan.

Additionally, the NYSDOT reviewed the enhancements as described in Section 5 below for consistency. This review determined the enhancements are consistent with the Niagara River Greenway Plan.

3. Final Design Refinements

3.1. Addition of the Tiftt Street roundabout- This roundabout was included as a gateway treatment to the Buffalo Outer Harbor area for people entering from Tiftt Street. The addition of the roundabout was initiated as a result of the Value Engineering Study performed in conjunction with the project (See Contract Drawing GP-6 – Sheet 321 of 940)

Wetland impacts in the southeast quadrant of the intersection of existing Fuhrmann Boulevard northbound and Tiftt Street have been recently identified. These wetland impacts were the result of new wetland delineations were performed in Fall 2007 and were done in conjunction with the Buffalo Lakeside Commerce Park development and field verified by NYSDOT. As a result of these new identified wetland impacts, the roundabout has been removed from the project.

4. Minor Modifications Subsequent to FEIS

4.1. Elimination of the Beachline Railroad bridge replacement – The elimination of the NY Route 5 bridge over Beachline bridge replacement was based upon cost savings. The justification to replace this structure (at an expenditure of \$4.0 million) was deemed insufficient relative to the possibility that the Beachline railroad spur may be abandoned and the useful service life still remaining with the structure.

4.2. Elimination of the Trailhead parking lot on Tiftt Street - The elimination of the Trailhead parking on Tiftt Street was done in concert with number 4.3 below, which provided a more appropriate, user friendly and efficient location for parking in this area. As a result of the inclusion of the parking area as described in 4.3 below, this Trailhead parking was deemed unnecessary. The change was initiated at the request of "South End Marina," a marina located on the west side of Fuhrmann Boulevard at Tiftt Street.

4.3. Widening of the east side of Fuhrmann Boulevard, just north of Tiftt Street to accommodate on-street parking - This change was initiated at the request of "South End Marina", a marina located on the west side of Fuhrmann Boulevard at Tiftt Street. This on-street parking would provide for lost parking due to the elimination of an existing access road along the

west side of Fuhrmann Boulevard, which is currently being used for parking (See Contract Drawing GP-46 – Sheet 361 of 940).

- 4.4. Retaining the existing NY Route 5 bridge over CSX Independent Cement Spur – The FEIS stated this bridge would be removed and filled in. The retention of the bridge was based upon a reconsideration of cost savings relative to the useful life remaining with the structure and comments received during the public involvement process. These comments stated the desire to maintain openings wherever possible through the NY Route 5 embankment.

5. Proposed Enhancements subsequent to Contract Letting

- 5.1. Enhancements as developed by a Landscape Advisory Committee - In late 2007, Congressman Higgins in concert with the New York State Department of Transportation organized an 8-member group of landscape experts and formed the Waterfront Parkway Landscape Design and Maintenance Panel. The panel has worked with NYSDOT Landscape Architects and Engineers in efforts to explore the possibility of improving the current project design and including project enhancements targeted to, among other things, promote high quality, ecologically sensitive and sustainable activities in or near the project area. Then panel met with NYSDOT designers a total of three times, most recently on March 3, 2008 at the Buffalo Museum of Science's Tifft Farm Nature Preserve to develop these ideas and concepts. As a result of these efforts several project enhancements are proposed.

The Department in consultation with FHWA and the SHPO reviewed the proposed enhancements discussed below to determine if any additional impacts would result under Section 106 or any changes to properties covered by Section 4(f) would result if these enhancements were implemented. Since the scope of the work is minor and there are no interferences with activities associated with existing areas on either a temporary or permanent basis, the Department has concluded there is no use within the meaning of Section 4(f) and no additional impacts as per Section 106. This NYSDOT evaluation and the SHPO determination dated March 31, 2008 are available for review and have been documented in the project files. Additionally, a summary is included in the attached Review Checklist.

- 5.1.1. Relocate and widen the Service Road 'C' bridge replacement - This change to the bridge replacement has been included in the project to provide a more visually appealing entrance through landscaping and aesthetic treatments, improve the multi-modal connections at Tifft Nature Preserve and provide more public visibility of Tifft Nature Preserve from Fuhrmann Boulevard. The bridge will be widened from 10.97 m (36') to 18.29 m (60') and shifted 259 m (850') south from the originally proposed location. This change will provide a direct two-way connection from Fuhrmann Boulevard to the Tifft Nature Preserve parking lot and main entrance. Additionally, the elevated portion of NY Route 5 (where the Service Road 'C' structure exists) will be lowered to-grade, providing a more appealing view of the Outer Harbor for patrons of Tifft Nature Preserve. In essence, the elevated portion of NY Route 5 where the existing Service Road 'C' bridge currently exists will be "swapped" with the area where the relocated Service Road 'C' will be located. Schematics depicting the preliminary changes have been attached to this document (See Attachments B, C, and D).

These changes have widespread support from various stakeholders including Tift Nature Preserve and the Friends of Tift, Inc. These stakeholders concur that this change is warranted, desired and will increase the long term viability of the Tift Nature Preserve. The letters of support from these organizations have been attached to this document (See Attachments E and F).

Pertinent issues relating to the construction of the relocated Service Road 'C' structure are addressed in the attached Review Checklist.

The construction of the relocated Service Road 'C' bridge as described above will eliminate the need for the dedicated Tift Nature Preserve driveway from Tift Street and additionally provides an opportunity enhance the existing multi-use path which currently parallels the existing Tift Nature Preserve driveway. The elimination of this driveway provides cost savings, reduces the asphalt 'footprint' of the project and removes a long term maintenance issue for the City of Buffalo, as well as improves the multi-use path experience for the previously planned reconstruction of the multi-use path in this area. The previous hazardous waste screening indicates no hazardous waste will be encountered with the construction of the enhanced multi-use path.

- 5.1.2. Multi-use path and small Fishing Boardwalk on Lake Kristy - The changes to the entrance of the Tift Nature Preserve include another multi-use path connection to Fuhrmann Boulevard and a small fishing boardwalk in the northwest corner of Lake Kristy, adjacent to the main entrance and parking lot of Tift Nature Preserve. This boardwalk will be located beyond the limit of the Tift Nature Preserve within New York State right-of-way and has the support of the both the Tift Nature Preserve and the Friends of Tift, Inc. (See Attachment G)

The Tift Nature preserve boardwalk, adjacent to Lake Kristy is in an area of a former bulk storage handling area. The boardwalk area is located at the southern extent of the former City Ship Canal located in this area. The City Ship Canal in this area existed prior to the establishment of the Tift Nature Preserve and the construction of the elevated portion of NY Route 5. Constructed entirely outside the limits of the Tift Nature Preserve, the boardwalk would be constructed as an extension of the current multi-use path in this area. The boardwalk would enhance an informal fishing area that is used extensively and would provide easy and ADA compliant access for all anglers and enhance the experience for all users utilizing the multi-use path in this area.

- 5.1.3. Construct a replacement structure in place of the Service Road 'D' structure - The FEIS stated the existing bridge would be removed and filled in. A new structure is proposed to replace the existing Service Road 'D' structure and has been included to improve long term access to the City Ship Canal area on the east side of NY Route 5. The inclusion of this new structure was based upon a reconsideration of comments received during the public involvement process. These comments stated the desire to maintain openings through the NY Route 5 embankment wherever possible.

- 5.1.4. Inclusion of a Fishing Boardwalk at the terminus of Tift Street - The addition of this boardwalk to the project will enhance the existing fishing area by making it ADA compliant, more inviting and user friendly. In addition to other existing attractions and

proposed enhancements, this boardwalk will provide for a more vibrant and viable waterfront.

The boardwalk will be located on the existing right-of-way for Fuhrmann Boulevard and will be located outside of the ordinary high water mark. No permits are necessary to construct this boardwalk. The boardwalk area has been heavily disturbed over the years and the existing surface material consists of a stone revetment. A proposed plan and typical section showing the proposed boardwalk is attached (See Attachments H & I).

5.1.5. Inclusion of a Gallagher Beach Pavilion and Picnic Area - This addition to the project will supplement and reinforce the Gallagher Beach area. This pavilion and picnic area will serve as a resting area and congregation point for area events at Gallagher Beach. The pavilion and picnic area will be tied to the existing boardwalk and pier through a newly expanded boardwalk area and provide more area for visitors and users. A schematic of this area is attached and depicts the planned improvements (See Attachment J & K).

5.1.6. Multi-Use path Changes and Additions - Additional multi-use path links will be established to provide more east-west connections underneath NY Route 5. These new connections are located at:

- Independent Cement Railroad Bridge (See Attachment L)
- Beachline Railroad Bridge (See Attachment M)
- Service Road 'D' Bridge (See Attachment M)
- South of South Michigan Street at the new trailhead parking area (See Attachment N)

A change in the design of the multi-use path will enhance the path experience for users throughout the project by:

- Varying surface treatments in certain areas (Times Beach).
 - Establishing thematic planting schemes to match with the natural themes of the area.
 - Designing themed areas along the multi-use path for interest, resting and diversity.
- These themed areas are planned for the Small Boat Harbor (See Attachment O) and the Beachline Railroad (See Attachment P) areas.

Schematics showing the anticipated new path links and themed areas are attached to this document.

5.1.7. Reconfiguration of Fuhrmann Boulevard to include parking lanes - These changes will reconfigure the four lane (two lanes in each direction) with median configuration of Fuhrmann Boulevard from South Michigan Street to Tift Street to a four lane configuration (one travel lane and one parking lane in each direction) with median. This change in configuration will provide more uniform parking options along the length of the project and serve as a traffic calming measure. This change will also include the construction of bulbouts at intersections to minimize pedestrians crossing distances and more adequately define the parking areas. These bulbouts can be easily removed in the future to reconfigure Fuhrmann Boulevard into a four-lane boulevard with two travel lanes in each direction, if necessitated by future traffic demands.

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PIN 5044.01
May 9, 2008

The existing traffic volumes for Fuhrmann Boulevard in the ETC and ETC+30 years has been determined to be adequately handled by a two lane (one lane in each direction) configuration. Traffic projections for development were utilized for the establishment of the four lane (two lanes in each direction) configuration of Fuhrmann Boulevard and were subjective based upon unknown development models for the Buffalo Outer Harbor area. The parking lanes proposed though will address an existing need, while providing for long term opportunities should development occur.

As a result of the lane reconfiguration, the need for the construction of the widened area for on-street parking, as described in Section 4.3 above, is eliminated and therefore will not be constructed. The widened area will continue to be available in the future should traffic demand require four lanes along Fuhrmann Boulevard and the need for on street parking is still present.

The following checklist addresses individual issues associated with the above changes and proposed enhancements. All changes and enhancements occur within the project limits established in the FEIS/ROD. All environmental consequences of the project identified in the FEIS/ROD, in addition to the changes and proposed enhancements, were studied in this review and specific issues relating to the changes are discussed in detail under the appropriate section of the checklist.

This review has been done in close coordination between NYSDOT and FHWA and the NYSDOT Project Development Manual (PDM); Appendix 11 has been used to form the basis of the review and assist in the format and presentation of the material.

Based on this review, it is concluded the Southtowns Connector / Buffalo Outer Harbor Project would not be substantially different from the Modified Improvement Alternative (Preferred Alternative) chosen in the 2006 FEIS and 2007 ROD, and would not result in any new significant adverse impacts requiring new mitigation measures. Furthermore, this review affirms the environmental analysis in the FEIS is still valid, up-to-date and complete. Therefore, the 2006 FEIS and 2007 ROD are still valid.

FEIS Report Number - FHWA-NY-EIS-06-02-F
FEIS Approval Date - May 2006
ROD Signature Date - January 2007

New York State Department of Transportation

REVIEW CHECKLIST

Project Name: Southtowns Connector / Buffalo Outer Harbor
Project Number (State/Federal): FHWA - NY EIS 06-02-F
Bridge Identification Number: Various
Document Type & Approval Date: FEIS
Date of Last Review: NA

The purpose of the review is to assure that the conclusions of the Design Approval Document (DAD) (CE, EA/FONSI, EIS/ROD, Type II, and Non-Type II) remain valid. The NYSDOT Project Development Manual (PDM), Appendix 11, has been used to form the basis of the review and assist in the format and presentation of the material. Information in this review should cover all changes that occurred after the last DAD's review or review was performed.

I. Proposed Action:

- | | YES | NO | N/A |
|--|--------------------------|-------------------------------------|--------------------------|
| 1. Have changes occurred in the project scope since approval of the original DAD or subsequent environmental review? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Has there been a change in the project design parameters since the original DAD or subsequent DAD was approved? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Describe changes: | | | |

II. Purpose and Need of Project:

- | | YES | NO | N/A |
|---|--------------------------|-------------------------------------|--------------------------|
| 1. Has there been a change in the project purpose and need from that described in the approved DAD or subsequent DAD? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Describe changes: | | | |

III. Environmental Consequences: *Identify (yes or no) if there have been any changes in project impacts from those identified in the original DAD or subsequent reviews. For each "yes," describe the magnitude of the change and the potential for significant impact.*

Cumulative Impacts analysis and documentation in association with the July 25, 2006 letter from EPA provided sufficient justification to address the Cumulative Impacts of the project and support the premise that the project as described in the FEIS was valid. The documentation was provided to the EPA in a letter dated December 7, 2006. Additional follow up with the EPA, through the FHWA, indicated their comments were resolved satisfactorily.

- | | YES | NO | N/A |
|---|--------------------------|-------------------------------------|--------------------------|
| 1. Has there been a change in the affected environment within or adjacent to the project area that could affect any of the impact categories (i.e. new legislation, transportation infrastructure, or protected resources)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

2. Describe changes:

A. Right-of-Way Impacts

1. Have the right-of-way requirements changed?
2. Describe changes:

YES NO N/A
☐ ☒ ☐

B. Social Impacts:

1. Would there be any changes in the neighborhoods or community cohesion for the various social groups as a result of the proposed action?
2. Are there any changes in travel patterns and accessibility (e.g., vehicular, commuter, bicycle, or pedestrian)?
3. Are there any changes to the impacts on school districts, recreation areas, churches, businesses, police and fire protection, etc.? Include the direct impacts and the indirect impacts that may result from the displacement of households and businesses.
4. Are there any changes to the effects of the project on the elderly, handicapped, non-drivers, transit-dependent, minority and ethnic groups, or the economically disadvantaged?
5. Have the project's effects on minorities or disadvantaged persons or those disproportionately affected changed? (i.e., E.O. 12898)?
6. Describe changes, if any:

YES NO N/A
☐ ☒ ☐
☒ ☐ ☐
☒ ☐ ☐
☐ ☒ ☐
☐ ☒ ☐

The impacts associated with numbers 2 & 3 above are the result from a change in access to the Tift Nature Preserve in connection with the relocated Service Road 'C' structure. Access to Tift Nature Preserve as currently designed is from Tift Street and provides the same level of access as presently exists. The Service Road 'C' structure would be relocated approximately 850' south to a location directly across from the main entrance of Tift Nature Preserve. The relocation of the structure will provide a two-way direct connection to their parking lot, a more visually appealing entrance through landscaping and aesthetic treatments, improved multi-modal connections and more public visibility from Fuhrmann Boulevard. The currently designed two-way driveway from Tift Street would be eliminated. Tift Nature Preserve stakeholders concur that this change is warranted, desired and will increase the long term viability of Tift Nature Preserve.

The inclusion of the new structure as a replacement for the existing Service Road 'D' structure will improve east-west access through the construction of a new multi-use path link underneath NY Route 5. In addition, this new structure will provide for long term opportunities along the City Ship Canal.

C. Economic Impacts:

1. Are there any changes to the economic impacts of the action on the regional and/or local economy, such as the effects of the project on development, tax revenues and public expenditures, employment

YES NO N/A
☐ ☒ ☐

- opportunities, accessibility, and retail sales?
2. Are there any changes to the potential impacts of the proposed action on established businesses or business districts, or changes to any opportunities to minimize or reduce such impacts by the public and/or private sectors? ☐ ☒ ☐
3. Describe changes, if any:

D. Local Land Use and Transportation Plan:

- | | YES | NO | N/A |
|--|--------------------------|-------------------------------------|-------------------------------------|
| 1. Have there been changes in the local land use or transportation plan? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. If yes, is the project consistent with the changes to the local transportation land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Would project changes induce adverse secondary and cumulative effects? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Describe changes: | | | |

E. Cultural Resource Impacts:

- | | YES | NO | N/A |
|--|--------------------------|-------------------------------------|--------------------------|
| 1. Are there changes in the project's effect on cultural resource?
(See explanation in Chapter V. Section 4(f)/6(f)) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Has there been a change in the status of National Register listed, eligible, or potentially eligible sites in the project area? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Describe changes: | | | |

The enhancements, as described in Section 4.1 above have been reviewed for impacts associated with Cultural Resource and the enhancements will result in no effect on Cultural Resources within the project limits. In addition, no change in the status of National Register listed, eligible or potential eligible sites in the project area will result from the construction of the proposed enhancements.

The State Historic Preservation Office (SHPO) has had previous concerns regarding possible impacts to a part of the City Ship Canal that extends to Tifft Street. This area of concern is located outside APE (area of potential effect) and outside of the limits of the proposed enhancement work and, therefore, no impact to cultural resources will occur as a result.

The new multi-use path links are all located in areas investigated as part of the Cultural Resource survey. The paths are all located in previously disturbed areas and there is no effect on Cultural Resources within these areas.

F. Farmland Impacts:

- | | YES | NO | N/A |
|---|--------------------------|-------------------------------------|--------------------------|
| 1. Are there changes in the project's effects on Prime or Unique Farmland as defined in 7 CFR part 657 of the Federal Farm Protection Policy Act? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Describe changes: | | | |

G. Wetland Impacts: (If yes, resource coordination required).

- | | YES | NO | N/A |
|---|--------------------------|-------------------------------------|-------------------------------------|
| 1. Are there changes in project scope or design that affect the wetland impacts? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Acres (original/proposed): ____/____ | | | |
| 3. Fill quantities (original/proposed): ____/____ cubic yards. | | | |
| 4. Dredge quantities (original/proposed): ____/____ cubic yards | | | |
| 5. Is there an impact on function and/or value of wetland? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Describe any changes from the original DAD and subsequent environmental review(s): | | | |

The enhancements, as described in Section 4.1 above have been reviewed for impacts associated with wetlands within the project limits. Federal Wetlands (PUBHx, PSS1E, and PF01E) have been identified in areas where proposed enhancement work would occur. The proposed enhancements will not impact or will avoid these wetlands.

H. Fish & Wildlife Impacts:

- | | YES | NO | N/A |
|--|--------------------------|-------------------------------------|--------------------------|
| 1. Are there changes in the effects to fish and wildlife resources? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Has there been a change in status of listed Threatened & Endangered species directly or indirectly affected by the project? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Describe changes: | | | |

An updated review of the USFWS's website was conducted on February 6, 2008. With exception of transient individuals, no federally-listed or proposed endangered or threatened species, or candidate species under USFWS's jurisdiction are known to exist in this area.

According to the NYSDEC Natural Heritage Program, there are two known locations of threatened species, the Lake Sturgeon (*Acipenser fulvescens*) in Lake Erie and the Least Bittern (*Lixobrychus exilis*) in the Tift Nature Preserve marsh. There are also potential locations for several state listed vascular plants.

None of the Landscape Advisory Committee recommendations infringe upon the areas where the Lake Sturgeon and Least Bittern have been documented

The remnants of the City of Buffalo industrial period have left the area degraded ecologically. Therefore, it is unlikely that suitable habitat for the several state listed species of vascular plants exists.

The construction of the Tift Nature Preserve and Tift Street boardwalks will not impact the fish habitat since the boardwalks will be constructed outside the ordinary high water mark.

I. Water Body Involvement:

- | | YES | NO | N/A |
|--|--------------------------|-------------------------------------|--------------------------|
| 1. Have there been any changes to the project effects on water bodies? If yes, complete 2-3 and describe in 4. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Project affects a navigable water body (as listed by USCG). | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Project affects navigable waters of the U.S. (as defined by the Corps). | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Describe any changes: | | | |

The construction of the Tifft Nature Preserve and Tifft Street boardwalks will not impact Lake Kristy or Lake Erie since the boardwalks will be constructed outside the ordinary high water mark.

J. Hazardous and Contaminated Material:

- | | YES | NO | N/A |
|---|--------------------------|-------------------------------------|-------------------------------------|
| 1. Have there been any changes in the status of or our involvement with known or potentially contaminated sites along the corridor? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. If buildings, residences are relocated, demolished or acquired, have they been evaluated for hazardous and contaminated material (i.e. asbestos?). | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Describe Changes: | | | |

The Regional Environmental Group has compared the available information from past investigations for the Outer Harbor Project in an effort to identify whether the enhancements proposed will impact the project from a hazardous waste/contaminated materials standpoint. The entire corridor was evaluated during the EIS process and all enhancements proposed will occur within the limits previously evaluated. All necessary conditions and requirements associated with the original contract are still valid and applicable.

One enhancement, the replacement structure in place of the Service Road 'D': Soil borings installed in the vicinity of the service road/proposed replacement structure (FH-X-6, FH-X-6A) encountered soils that exceeded the appropriate regulatory levels for Target Compound List (TCL) Semi-Volatile Organic Compounds (SVOCs) and for Target Analyte List (TAL) metals, though no visible signs of contamination were noted and no elevated organic vapor monitoring results were recorded. No NYSDEC spill report was opened based on the boring observations.

K. Air Quality Conformity:

- | | YES | NO | N/A |
|--|--------------------------|-------------------------------------|--------------------------|
| 1. Does the project as proposed affect a non-attainment area, which will require a revised conformity determination? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Does the proposed change affect air quality monitoring? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Describe any changes: | | | |

L. Floodplains Impacts:

- | | YES | NO | N/A |
|---|--------------------------|-------------------------------------|--------------------------|
| 1. Have there been changes in the project effects to a regulatory floodplain? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Describe changes: | | | |

M. Noise Impact:

- | | YES | NO | N/A |
|--|--------------------------|-------------------------------------|--------------------------|
| 1. Have there been any changes in the proposed project that may change its status under 23 CFR 772 to a Type I project? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Has there been any new land development that may result in a potential noise impact? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Have there been any changes in the geometric design of the proposed project that may result in potential noise impact? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Have there been any changes in the projected future traffic (volume, speed, or classification) that may result in a potential noise impact? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 5. Have there been any changes in the proposed project that may revise its previous abatement recommendations? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

6. Describe changes:

N. Water Quality Impacts:

- | | YES | NO | N/A |
|---|--------------------------|-------------------------------------|--------------------------|
| 1. Does the project now involve a public or private drinking source? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Would project changes affect the potential discharge of storm water into Waters of the U.S? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Will the project now involve a stormwater discharge SPDES permit and/or require changes to an existing permit? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Describe changes: | | | |

O. Permits and Authorization:

- | | YES | NO | N/A |
|---|-------------------------------------|-------------------------------------|--------------------------|
| 1. Are there any changes in the status of the permits and authorizations previously required for the project? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Will any additional permits be needed due to the changes in the project? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Describe changes: | | | |

An Article 24 permit will be needed. The wetland directly adjacent to Times Beach was recently redelineated causing proposed improvements to lie within the 100' buffer zone. The Article 24 permit application has been submitted and we anticipate no issues in obtaining the permit.

IV. Construction Impacts:

Have the following potential construction effects changed:

- | | YES | NO | N/A |
|---|--------------------------|-------------------------------------|--------------------------|
| 1. Construction timing commitments? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Temporary degradation of water quality? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Temporary stream diversion? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Temporary degradation of air quality? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 5. Temporary delays and detours of traffic? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 6. Temporary impact to businesses? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. Other construction impacts, including noise? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 8. Describe changes: | | | |

V. Section 4(f)/6(f):

1. Has there been a change in status of Section 4(f) properties affected by the proposed action?

YES
☐

NO
☒

N/A
☐

The following changes and/or enhancements have been evaluated under Section 4(f):

Relocate and widen the Service Road 'C' bridge replacement

This enhancement will change the access to the Tifft Nature Preserve that is a Section 4(f) resource. This work will not require land from the Section 4(f) site be permanently or temporarily incorporated into the transportation facility. Furthermore, the park owner (Buffalo Museum of Science) has expressed their support for this change in access and has stated that it will improve visual and transportation connectivity to the Tift Nature Preserve. This change in access will not substantially impair the functions or features of this park which qualify it under Section 4(f), and, therefore, there is no use or constructive use under Section 4(f).

Inclusion Fishing Boardwalk adjacent to the Tift Nature Preserve

This enhancement will not permanently incorporate any land into a transportation facility and the current New York State right-of-way is being retained for its present use. This enhancement will not require a temporary occupancy of Section 4(f) land that is adverse.

Furthermore, the fishing boardwalk will not substantially impair the functions or features of the adjacent Tifft Nature Preserve and is supported by the Preserve owner; therefore, there is no use or constructive use under Section 4(f). The Preserve owner has committed to furnishing NYSDOT a letter documenting their continued support of the fishing boardwalk and this letter be transmitted to the FHWA upon receipt.

Fishing Boardwalk at the terminus of Tifft Street

This enhancement will not permanently incorporate any land into a transportation facility and the current New York State right-of-way is being retained for its present use. This enhancement will not require a temporary occupancy of Section 4(f) land that is adverse.

Pavillion and Picnic Area adjacent to Gallagher Beach

This enhancement will not permanently incorporate any land into a transportation facility and the current New York State right-of-way is being retained for its present use. This enhancement will not require a temporary occupancy of Section 4(f) land that is adverse.

Furthermore, the nature of work does not substantially impair the functions or features of Gallagher Beach and does not constitute a constructive use under Section 4(f).

- | | | | |
|--|--------------------------|-------------------------------------|--------------------------|
| 2. Would the project have "use" or "constructive use" of Section 4(f) properties? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Has there been a change in status of Section 6(f) properties affected by the proposed action? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Is the use of 6(f) property a conversion of use per Section 6(f) of the Land Water Conservation Fund Act? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

5. If yes to any of the above, attach appropriate Section 4(f) and Section 6(f) documentation.

VI. Comments and Coordination Conducted for the Review:

- | | | | |
|--|--|--------------------------------|--|
| 1. Has public/agency coordination occurred since the DAD was approved or since the last review? | YES
<input checked="" type="checkbox"/> | NO
<input type="checkbox"/> | N/A
<input type="checkbox"/> |
| 2. Discussion: Describe comments and coordination efforts taken for this project since approval of the DAD or review. Discuss pertinent issues raised by the public and government agencies. Attach applicable correspondence and responses. | YES
<input type="checkbox"/> | NO
<input type="checkbox"/> | N/A
<input checked="" type="checkbox"/> |

Through suggestions received from Congressman Brian Higgins' office, the Department of Transportation embarked on the establishment of a Landscape Advisory Committee. This Committee would focus on the aesthetics and landscaping aspects of the first phase of the project. The goal was to make a good project great. Any changes developed through the Committee are intended to encourage, develop and support a more active and vibrant waterfront area in conjunction with the first phase of the project.

3. Independent Quality Control: An independent quality control review, separate from the function group review has been conducted in the Region and all policies, procedures, standards, rules and regulations requisite to Design Approval has been followed.

All modifications, refinements and enhancements have undergone an Independent Quality Control review. This review was performed independent of function group reviews by the Regional Construction Group, Regional Operations Group (both Maintenance and Traffic & Safety), NYSDOT Main Office DQAB, Office of Environment, Major Projects Office, Office of Legal Affairs, Office of External Affairs and the Policy and Planning Division. It was determined that all policies, procedures, standards, rules and regulations have been complied with.

VII. Changes in Environmental Commitments or Mitigation Measures:

- | | | | |
|--|---------------------------------|---|---------------------------------|
| 1. Have any changes in the environmental commitments or mitigation occurred? | YES
<input type="checkbox"/> | NO
<input checked="" type="checkbox"/> | N/A
<input type="checkbox"/> |
|--|---------------------------------|---|---------------------------------|

2. Describe changes:

VIII. Environmental Review:

- | | YES | NO | N/A |
|--|-------------------------------------|--------------------------|--------------------------|
| 1. The conclusions and commitments of the original DAD approval or subsequent reviews remain valid (if no, go to #2). | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. The changes in the project scope, environmental consequences, or public controversy require a new, supplemental DAD or EIS.
(No. 2 requires prior consultation with the FHWA Area Liaison and Environmental Specialist.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

In conclusion, the above checklist supports the determination that the Southtowns Connector / Buffalo Outer Harbor Project would not be substantially different from the Preferred Alternative in the 2006 FEIS and 2007 ROD and that it would not result in any new significant adverse impacts requiring new mitigation measures. Furthermore, the environmental analysis in the FEIS is still valid, up-to-date and complete. Therefore, the 2006 FEIS and 2007 ROD are still valid.

Prepared by:

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Project Manager
Date: May 9, 2008

Reviewed by:
Darrell F. Kaminski, P.E. Signed: "Original Signed By: Darrell F. Kaminski"
Date: May 9, 2008